

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2486**

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**Introduced by Assembly Member Feuer**

February 24, 2012

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An act to amend Section ~~325 of the Business and Professions~~ *1170.1 of the Penal Code*, relating to ~~professions and vocations~~ *imprisonment*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2486, as amended, Feuer. ~~Director of Consumer Affairs.~~  
*Imprisonment: felonies committed while imprisoned.*

*Existing law provides that a felony is a crime that is punishable by death, by imprisonment in the state prison, or by imprisonment in the county jail for more than one year. Existing law provides generally that felonies are punishable in a county jail for 16 months, or 2 or 3 years. Existing law requires that penalties for a felony committed by a person while serving a term of imprisonment in a state prison be served consecutively to the existing term.*

*This bill would also make these penalty requirements to serve a consecutive term applicable to a person who commits a felony while serving a term of imprisonment for a felony conviction in a county jail.*

*Because this bill would extend the period of imprisonment in county jails, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Under existing law, the Department of Consumer Affairs consists of boards that license and regulate various professions and vocations. The department is under the control of the Director of Consumer Affairs. Existing law requires the director to receive complaints from consumers concerning various matters, including, but not limited to, violations of certain laws and regulations promulgated pursuant to those laws.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1170.1 of the Penal Code, as amended*  
2     *by Section 8.7 of Chapter 361 of the Statutes of 2011, is amended*  
3     *to read:*

4     1170.1. (a) Except as otherwise provided by law, and subject  
5     to Section 654, when any person is convicted of two or more  
6     felonies, whether in the same proceeding or court or in different  
7     proceedings or courts, and whether by judgment rendered by the  
8     same or by a different court, and a consecutive term of  
9     imprisonment is imposed under Sections 669 and 1170, the  
10    aggregate term of imprisonment for all these convictions shall be  
11    the sum of the principal term, the subordinate term, and any  
12    additional term imposed for applicable enhancements for prior  
13    convictions, prior prison terms, and Section 12022.1. The principal  
14    term shall consist of the greatest term of imprisonment imposed  
15    by the court for any of the crimes, including any term imposed for  
16    applicable specific enhancements. The subordinate term for each  
17    consecutive offense shall consist of one-third of the middle term  
18    of imprisonment prescribed for each other felony conviction for  
19    which a consecutive term of imprisonment is imposed, and shall  
20    include one-third of the term imposed for any specific  
21    enhancements applicable to those subordinate offenses. Whenever  
22    a court imposes a term of imprisonment in the state prison, whether  
23    the term is a principal or subordinate term, the aggregate term shall  
24    be served in the state prison, regardless as to whether or not one  
25    of the terms specifies imprisonment in the county jail pursuant to  
26    subdivision (h) of Section 1170.

1 (b) If a person is convicted of two or more violations of  
2 kidnapping, as defined in Section 207, involving separate victims,  
3 the subordinate term for each consecutive offense of kidnapping  
4 shall consist of the full middle term and shall include the full term  
5 imposed for specific enhancements applicable to those subordinate  
6 offenses.

7 (c) In the case of any person convicted of one or more felonies  
8 committed while the person is confined in a state prison *or in a*  
9 *county jail under subdivision (h) of Section 1170*, or is subject to  
10 reimprisonment for escape from custody, and the law either  
11 requires the terms to be served consecutively or the court imposes  
12 consecutive terms, the term of imprisonment for all the convictions  
13 that the person is required to serve consecutively shall commence  
14 from the time the person would otherwise have been released from  
15 prison *or county jail*. If the new offenses are consecutive with each  
16 other, the principal and subordinate terms shall be calculated as  
17 provided in subdivision (a). This subdivision shall be applicable  
18 in cases of convictions of more than one offense in the same or  
19 different proceedings.

20 (d) When the court imposes a sentence for a felony pursuant to  
21 Section 1170 or subdivision (b) of Section 1168, the court shall  
22 also impose, in addition and consecutive to the offense of which  
23 the person has been convicted, the additional terms provided for  
24 any applicable enhancements. If an enhancement is punishable by  
25 one of three terms, the court shall, in its discretion, impose the  
26 term that best serves the interest of justice, and state the reasons  
27 for its sentence choice on the record at the time of sentencing. The  
28 court shall also impose any other additional term that the court  
29 determines in its discretion or as required by law shall run  
30 consecutive to the term imposed under Section 1170 or subdivision  
31 (b) of Section 1168. In considering the imposition of the additional  
32 term, the court shall apply the sentencing rules of the Judicial  
33 Council.

34 (e) All enhancements shall be alleged in the accusatory pleading  
35 and either admitted by the defendant in open court or found to be  
36 true by the trier of fact.

37 (f) When two or more enhancements may be imposed for being  
38 armed with or using a dangerous or deadly weapon or a firearm  
39 in the commission of a single offense, only the greatest of those  
40 enhancements shall be imposed for that offense. This subdivision

1 shall not limit the imposition of any other enhancements applicable  
2 to that offense, including an enhancement for the infliction of great  
3 bodily injury.

4 (g) When two or more enhancements may be imposed for the  
5 infliction of great bodily injury on the same victim in the  
6 commission of a single offense, only the greatest of those  
7 enhancements shall be imposed for that offense. This subdivision  
8 shall not limit the imposition of any other enhancements applicable  
9 to that offense, including an enhancement for being armed with  
10 or using a dangerous or deadly weapon or a firearm.

11 (h) For any violation of an offense specified in Section 667.6,  
12 the number of enhancements that may be imposed shall not be  
13 limited, regardless of whether the enhancements are pursuant to  
14 this section, Section 667.6, or some other provision of law. Each  
15 of the enhancements shall be a full and separately served term.

16 (i) This section shall remain in effect only until January 1, 2014,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2014, deletes or extends that date.

19 *SEC. 2. Section 1170.1 of the Penal Code, as amended by*  
20 *Section 9.7 of Chapter 361 of the Statutes of 2011, is amended to*  
21 *read:*

22 1170.1. (a) Except as otherwise provided by law, and subject  
23 to Section 654, when any person is convicted of two or more  
24 felonies, whether in the same proceeding or court or in different  
25 proceedings or courts, and whether by judgment rendered by the  
26 same or by a different court, and a consecutive term of  
27 imprisonment is imposed under Sections 669 and 1170, the  
28 aggregate term of imprisonment for all these convictions shall be  
29 the sum of the principal term, the subordinate term, and any  
30 additional term imposed for applicable enhancements for prior  
31 convictions, prior prison terms, and Section 12022.1. The principal  
32 term shall consist of the greatest term of imprisonment imposed  
33 by the court for any of the crimes, including any term imposed for  
34 applicable specific enhancements. The subordinate term for each  
35 consecutive offense shall consist of one-third of the middle term  
36 of imprisonment prescribed for each other felony conviction for  
37 which a consecutive term of imprisonment is imposed, and shall  
38 include one-third of the term imposed for any specific  
39 enhancements applicable to those subordinate offenses. Whenever  
40 a court imposes a term of imprisonment in the state prison, whether

1 the term is a principal or subordinate term, the aggregate term shall  
2 be served in the state prison, regardless as to whether or not one  
3 of the terms specifies imprisonment in the county jail pursuant to  
4 subdivision (h) of Section 1170.

5 (b) If a person is convicted of two or more violations of  
6 kidnapping, as defined in Section 207, involving separate victims,  
7 the subordinate term for each consecutive offense of kidnapping  
8 shall consist of the full middle term and shall include the full term  
9 imposed for specific enhancements applicable to those subordinate  
10 offenses.

11 (c) In the case of any person convicted of one or more felonies  
12 committed while the person is confined in a state prison *or in a*  
13 *county jail under subdivision (h) of Section 1170*, or is subject to  
14 reimprisonment for escape from custody, and the law either  
15 requires the terms to be served consecutively or the court imposes  
16 consecutive terms, the term of imprisonment for all the convictions  
17 that the person is required to serve consecutively shall commence  
18 from the time the person would otherwise have been released from  
19 prison *or county jail*. If the new offenses are consecutive with each  
20 other, the principal and subordinate terms shall be calculated as  
21 provided in subdivision (a). This subdivision shall be applicable  
22 in cases of convictions of more than one offense in the same or  
23 different proceedings.

24 (d) When the court imposes a sentence for a felony pursuant to  
25 Section 1170 or subdivision (b) of Section 1168, the court shall  
26 also impose, in addition and consecutive to the offense of which  
27 the person has been convicted, the additional terms provided for  
28 any applicable enhancements. If an enhancement is punishable by  
29 one of three terms, the court shall impose the middle term unless  
30 there are circumstances in aggravation or mitigation, and state the  
31 reasons for its sentence choice, other than the middle term, on the  
32 record at the time of sentencing. The court shall also impose any  
33 other additional term that the court determines in its discretion or  
34 as required by law shall run consecutive to the term imposed under  
35 Section 1170 or subdivision (b) of Section 1168. In considering  
36 the imposition of the additional term, the court shall apply the  
37 sentencing rules of the Judicial Council.

38 (e) All enhancements shall be alleged in the accusatory pleading  
39 and either admitted by the defendant in open court or found to be  
40 true by the trier of fact.

(f) When two or more enhancements may be imposed for being armed with or using a dangerous or deadly weapon or a firearm in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for the infliction of great bodily injury.

(g) When two or more enhancements may be imposed for the infliction of great bodily injury on the same victim in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for being armed with or using a dangerous or deadly weapon or a firearm.

(h) For any violation of an offense specified in Section 667.6, the number of enhancements that may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this section, Section 667.6, or some other provision of law. Each of the enhancements shall be a full and separately served term.

(i) This section shall become operative on January 1, 2014.

*SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. Section 325 of the Business and Professions Code is amended to read:~~

~~325. It shall be the duty of the director to receive complaints from consumers concerning (a) unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce; (b) the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare; (c) violations of provisions of this code relating to businesses and professions licensed by any agency of the department, and regulations promulgated pursuant thereto; and~~

- 1 ~~(d) other matters consistent with the purposes of this chapter,~~
- 2 ~~whenever appropriate.~~

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